

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)	
)	
CHARLES DOUGLAS HARDIN and)	CASE NO. 01-62292 JPK
JULIE ANN HARDIN,)	Chapter 7
)	
Debtors.)	
*****)	
CHARLES DOUGLAS HARDIN,)	
)	
Plaintiff,)	
)	
v.)	ADVERSARY NO. 05-6222
)	
CHASE HOME MORTGAGE,)	
CORPORATION,)	
)	
Defendant.)	

ORDER REGARDING DEFECTIVE COMPLAINT

This adversary proceeding was initiated by a complaint filed on October 13, 2005, allegedly under the auspices of Attorney Emily S. Waddle.

First, the complaint is not signed by the attorney of record, but rather by the plaintiff Charles Douglas Hardin, and thus is not a complaint at all under the requirements of Fed.R.Bankr.P. 9011(a), which requires a complaint to be signed "by at least one attorney of record in the attorney's individual name".

Second, the complaint is woefully inadequate under the applicable rules of pleading. Complaints in adversary proceedings are governed by Fed.R.Bankr.P. 7008/Fed.R.Civ.P. 8. A basic requirement of federal pleading is that the complaint demonstrate on its face that federal jurisdiction exists, as required by Fed.R.Civ.P. 8(a)(1); this complaint fails to do so. Fed.R.Bankr.P. 7008 states that the "allegation of jurisdiction required by Rule 8(a) shall also contain a reference to the name, number and chapter of the case under the Code to which the adversary proceeding relates and to the district and division where the case under the Code is

pending"; this complaint fails on this score as well. Fed.R.Bankr.P. 7008(a) also requires that the complaint "contain a statement that the proceeding is core or non-core and, if non-core, that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy judge"; the complaint is again deficient. Finally, the Court is left to guess the specific provisions of the Bankruptcy Code which the plaintiff deems applicable to his prayer for relief, and thus the complaint fails to state "a short and plain statement of the claim showing that the pleader is entitled to relief" as required by Fed.R.Civ.P. 8(a).

There is no point in wasting any more of anyone else's time with the complaint as presently filed.

IT IS ORDERED that the plaintiff is granted a period of time of 15 days from the date of entry of this order to file an amended complaint which satisfies the above-designated pleading requirements, and that failing to do so, the initial complaint will be stricken from the record and this adversary proceeding will be dismissed.

IT IS FURTHER ORDERED that the service of the complaint filed on October 13, 2005 on the defendant shall not constitute service of a complaint upon the defendant with respect to any requirement of the defendant to respond to the complaint which initiates this adversary proceeding. In order to effectuate service, if a timely amended complaint is filed, it will be necessary for the plaintiff's counsel to obtain the issuance of an alias summons for the defendant.¹

Dated at Hammond, Indiana on October 27, 2005.

/s/ J. Philip Klingeberger
J. Philip Klingeberger
United States Bankruptcy Court

Distribution:
Attorneys of Record

¹Service of process must be effected upon the defendant in accordance with the requirements of Fed.R.Bankr.P. 7004(b)(3) and/or 7004(h) [if the defendant is "an insured depository institution" as defined in that rule].